

## REMARKS

In item 4 of the Office Action, the Examiner notes the present application currently names joint inventors, and in considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims were commonly owned at the time.

Applicants acknowledge herein that all subject matter of the invention was commonly owned at the time the claims were made.

In item 5 of the Office Action, the Examiner rejected Claims 1-5 under the provisions 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,752,422 to Uchida et al., in view U.S. Pat. No. 6,135,427 to Tsai and JP 63134332 to Kawamura et al.

Reconsideration in view of this amendment is respectfully requested.

The presently claimed invention is directed to a device for atomizing cleaning and/or disinfecting liquids without the use of pumps, compressors, high temperatures or aerosol gases. The device is portable and has a handle to support the portable container that is divided into at least a first and second compartment. Within the first compartment there is a body having an inlet channel for the cleaning and/or disinfecting solution to enter. The liquid is vaporized within the body and released to the second compartment whereby air from the electro-fan in the first compartment enters the second compartment by way of a perforated wall and forces the vaporized liquid out of the device through a flexible hose to the desired location. The invention provides for a means for grasping and inserting a bottle containing the cleaning and/or disinfecting liquid jar. The invention comprises an electro circuit for converting electric oscillation of piezoelectric elements into mechanical oscillation at ultrasonic frequency for the immediate atomization of the cleaning and/or disinfecting liquid. The claimed device further comprises an electronic floating device capable of indicating the level of cleaning and/or disinfecting liquid inside the invention.

A finding of obviousness under §103 requires a determination of the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed subject matter and the prior art, and whether the differences are such that the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. *Graham v. Deere* 383 U.S. 1 (1966). The relevant inquiry is whether the prior art suggests the invention and whether the prior art provides one of ordinary skill in the art with a reasonable expectation of success. *In re O'Farrell* 853 F.2d 894, 903 (Fed. Cir. 1988).

Uchida et al. teaches "The present invention ... is to provide an ultrasonic humidifier ...," see Col 1, lines 26-31, Tsai teaches "The present invention relates to a humidifier, and particularly to one which is used for adding moisture to the atmosphere ...," see Col 1, lines 10-14, and Kawamura teaches "a humidifying device," see JP 63134332, Abstract. Uchida et al., Tsai and Kawamura et al. all disclose humidifiers for the problem of low humidity in an area, not the delivery of cleaning and/or disinfecting liquid. The present invention is not a humidifier, and is directed to a novel device for the novel application of cleaning and/or disinfecting liquids to particular areas. As such, the cited prior art does not disclose the relevant "scope and content" of the presently claimed invention.

Uchida et al., Tsai and Kawamura et al. all teach away from the designed concentrated application of the atomized liquid, i.e. the presently claimed directed application of atomized liquids through a flexible hose to a particular area. Uchida et al. teaches the delivery of "water spray is emitted, by driving the blower, into a room," see US Patent No. 4,752,422, Abstract, and Tsai discloses the delivery of "moisture to the atmosphere in the room," see Tsai at Col. 1, lines 10-13. Further, Kawamura teaches humidification of "a reservoir" for keeping fruit fresh, see JP 63134332, Abstract. Importantly, a suggestion or motivation to concentrate or direct the application of the vaporized water to a particular area teaches away from and directly contradicts the intended function of the cited prior art. Adding water or fragrance to the atmosphere of a room, or water to a reservoir for fruit would not provide one of ordinary skill in the art

with a reasonable expectation of success in dispensing cleaning and/or disinfecting liquids that may include particulate materials to a specific location.

It is impermissible to use the presently claimed invention as an instruction manual or template to piece together the teachings of the cited prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 F. 2d 982, 987, 18 USPQ2d, 1885, 1888 (Fed. Cir. 1991) See also, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985) Further, the courts have stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d at 1600 (Fed. Cir. 1988)

For these reasons it is therefore respectfully requested that the above §103(a) rejection of Claims 1-5 be withdrawn.

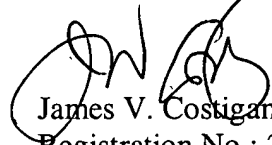
In items 6, 7 and 8 of the Office Action, the Examiner rejected Claims 6, 7 and 8, under the provisions 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,752,422 to Uchida et al., in view U.S. Pat. No. 6,135,427 to Tsai, JP 63134332 to Kawamura et al., U. S. Pat. No. 5,447,663 to Dix et al., and U.S. Pat. No. 4,563,313 to Tsuaki, respectively.

Claims 6, 7 and 8 have been canceled and Claim 1 has been amended to further comprise a "body (16) made of plastic or metallic materials," a device (10) comprising "a handle," and an electronic floating device capable of "indicating a level of said cleaning and/or disinfecting liquid inside said body." Support for these amendments can be found in the Specification at page 4, line 1, page 3, line 23 and page 6, lines 8-13, respectively. Therefore, the instant application for the atomizing of cleaning and/or disinfectant liquids as presently amended Claim 1 recites is not made obvious by the cited prior art, and for these reasons it is respectfully requested that the above §103(a) rejection of Claims 6, 7 and 8 be withdrawn.

Based upon the above amendments and remarks, applicant respectfully submits that Claim 1 and new Claim 9 are now allowable over the prior art and that the present application is in proper form for allowance.

An early and favorable action is earnestly solicited.

Respectfully submitted,



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